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E.O. 12356: N/A

SUBJECT: NEWS ARTICLE HEADED "U.S. CONGRESS OFFICIALS
PROBING BANKS IN SWITZERLAND?"

IN NEUE ZUERCHER ZEITUNG (CENTER-RIGHT) BY WASHINGTON
ECONOMIC CORRESPONDENT, WITH SUBHEAD, "'FACT-FINDING'
TRIP COMES TO ABRUPT END": (BEGIN TEXT) IS SWISS BANK
SECURITY NOT SO POROUS AS IS NOW GENERALLY ASSUMED? OR ARE
THE BANKS LOATH TO COOPERATE UNDER INTERNATIONAL
AGREEMENTS, AS THE INVESTMENT DEALERS DIGEST CLAIMED IN
A RECENT ISSUE? AMERICANS ARE NATURALLY ANXIOUS TO GET
ANSWERS TO THESE QUESTIONS, AND THE WAY BILATERAL
RELATIONS ARE GOING SEEMS--AT LEAST TO AMERICANS--TO
PROVIDE LITTLE ENLIGHTENMENT.

FOUR STAFF MEMBERS OF A SUBCOMMITTEE OF THE ENERGY AND
COMMERCE COMMISSION IN THE CONGRESS HELD TALKS WITH BANKS
AND SUPERVISORY AUTHORITIES IN SWITZERLAND RECENTLY, BUT
AFTER A SHORT STAY IN WHICH THEY DID NOT HAVE TIME TO
COMPLETE THEIR PROGRAM, THEY WENT HOME AGAIN. THE HOUSE
COMMITTEE ON ENERGY AND COMMERCE, PRESIDED OVER BY REP.
JOHN DINGELL OF MICHIGAN, SUPERVISES AMONG OTHER THINGS
THE MONEY AND SECURITIES MARKET. ITS OVERSIGHT AND
INVESTIGATIONS SUBCOMMITTEE, WHOSE OFFICIALS WERE
VISITING SWITZERLAND, IS ALSO ENTRUSTED WITH SUPERVISING
THE SECURITIES AND EXCHANGE COMMISSION (SEC).

AGAINST THE BACKDROP OF THE RECENT RAPPROCHEMENT IN
QUESTIONS OF LEGAL ASSISTANCE--INCLUDING THE SIGNING OF A
MEMORANDUM OF UNDERSTANDING BY JUSTICE MINISTER ELISABETH
KOPP IN WASHINGTON, AN EXCHANGE OF NOTES ON EXTENDED
LEGAL AID IN ADMINISTRATIVE PROCEEDINGS, AND THE
ENACTMENT OF NORMS ON INSIDER TRADING BY THE SWISS
PARLIAMENT--MEMBERS OF THE COMMISSION FOUND IT AN
OPPORTUNE TIME TO BRIEF THEMSELVES ON THE SPOT ON CURRENT
PRACTICE IN RECIPROCAL LEGAL ASSISTANCE AND THE MODALITIES
OF PURSUING INSIDER TRADERS. THE RESULTS OF THE TALKS
COULD THEN BE USED IN THE CURRENT DISCUSSIONS ON AN

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AMERICAN INSIDER-TRADING PENAL NORM.

SO, AT LEAST, THE COMMISSION'S STAFF DEPICTED DINGELL'S TASK AND THE OBJECTS OF THE TRIP. BUT AFTER AN INITIAL TALK WITH A GENEVA PRIVATE BANKER, THE PICTURE LOOKED RATHER DIFFERENT. WHAT WAS UNDER DISCUSSION IN FACT--UNEXPECTEDLY FOR THE GENEVA SIDE--WAS THE DENNIS LEVINE "CAUSE CELEBRE." WHAT AT FIRST LOOKED LIKE A SIMPLE FACT-FINDING TOUR SUDDENLY TURNED INTO "FORBIDDEN DEALINGS FOR A FOREIGN STATE" (PUNISHABLE UNDER ARTICLE 271 OF THE SWISS PENAL CODE). BUT THE CONGRESS REPRESENTATIVES WERE NOT COMPETENT TO DO THIS, AND TO THEIR QUESTIONS ON PAST AND PRESENT LEGAL-AID CASES THEY RECEIVED NO REPLY FROM THEIR SWISS INTERLOCUTORS.

BETWEEN BERN AND WASHINGTON THE "HOT LINES" BECAME EVEN HOTTER, AND AFTER A TALK WITH THEIR CHIEF DINGELL, WHO MEANTIME HAD BEEN TAKING SOUNDINGS WITH REPRESENTATIVES OF THE SEC AND THE U.S. JUSTICE DEPARTMENT OVER THE PRACTICE OF BILATERAL LEGAL ASSISTANCE, THE FOUR OFFICIALS PREFERRED TO POSTPONE THE REST OF THEIR JOURNEY FOR THE TIME BEING.

WAS THIS A CASE OF FISHING BY SELF-APPOINTED "CONGRESSIONAL INVESTIGATION AUTHORITIES" OR JUST A NAIVE AND CLUMSY OPERATION BY THE AMERICANS? FOR SWITZERLAND, THESE QUESTIONS ARE NOT EASY TO ANSWER. STRICT DIVISION OF POWERS BELONGS TO THE AMERICAN TRADITION. THAT MEANS ALSO THAT AGREEMENTS BETWEEN THE ADMINISTRATION AND FOREIGN GOVERNMENTS DO NOT HAVE TO BE RESPECTED FOR LONG BY THE CONGRESS. THE VERY TITLE OF THE SUBCOMMITTEE SPEAKS OF INVESTIGATIONS, WHICH THE AMERICANS THINK IS THE CAUSE OF SWISS DISPLEASURE. THE HEAD OF THE SUBCOMMITTEE STAFF EVIDENTLY ASSURED BERN'S REPRESENTATIVES QUITE SINCERELY THAT THERE WAS NO INTENTION OF VIOLATING SWISS LAWS. THIS WAS HARD TO BELIEVE, HOWEVER, FOR BEFORE THEIR DEPARTURE THE FOUR HAD BEEN EXHAUSTIVELY BRIEFED BY BOTH AMERICAN AND SWISS AUTHORITIES. THEY WERE ALSO INFORMED IN WRITING ABOUT THE LEGAL LIMITS OF THEIR INVESTIGATIVE EFFORTS. THE SWISS FOREIGN MINISTRY DISCOUNTS THE SUSPICION THAT NATURALLY UNCLAS SECTION 02 OF 02 GENEVA 02097

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E.O. 12356: N/A

SUBJECT: NEWS ARTICLE HEADED "U.S. CONGRESS OFFICIALS ARISES THAT THE FOUR WERE ON A DELICATE FISHING MISSION IN THE WATERS OF SWISS BANK SECRECY--AND WERE TRAPPED BY THE APPROPRIATE "FISHERY PATROLS."

AFTER A CLARIFYING CONVERSATION WITH JOHN DINGELL, AMBASSADOR KLAUS JACOBI AT ANY RATE NO LONGER SAW ANY OBJECTION TO A CONTINUATION OF THE ABORTED INFORMATION TRIP, THOUGH THE DATE FOR ITS RESUMPTION HAS NOT YET BEEN FIXED. (END TEXT)

IN AN EDITORIAL COMMENT, THE PAPER SAID: (BEGIN TEXT)
THE FOUR AMERICAN STAFFERS' "TOUR OF INSPECTION" SEEMS TO HAVE BEEN THOROUGHLY PREPARED. FIRST OF ALL, THEY WERE INFORMED IN THE U.S. BY THE SWISS EMBASSY AND THE AMERICAN SECURITIES AND EXCHANGE COMMISSION (SEC) ABOUT THE SWISS LEGAL SITUATION. THEN IN MID-FEBRUARY CAME SIMILAR CONVERSATIONS ON THE SPOT WITH THE SWISS BANKING COMMISSION, THE SWISS FEDERAL ATTORNEY'S OFFICE AND THE

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SWISS POLICE MINISTRY.

IN PRINCIPLE, THERE WAS NO OBJECTION TO THE AMERICAN OBSERVERS SAY, BY THE FINANCIAL AND ECONOMIC DEPARTMENT OF THE SWISS FOREIGN MINISTRY. ACCORDING TO THOSE SOURCES, THE DEPARTMENT ALSO ADVISED A FEW BANKS THAT THEY COULD EXPECT AN AMERICAN VISIT, TO DISCUSS SUCH MATTERS AS THE SWISS MONEY MARKET, BANK SECRECY, AND PERHAPS FOR THE VISITORS TO INFORM THEMSELVES ABOUT THE AGREEMENT ON THE OBLIGATION OF CAUTION IN SUCH DEALINGS. HOWEVER, DURING THE GENEVA PRIVATE-BANK VISIT, ACCORDING TO BANK SOURCES, THE VISITING AMERICANS, IN THE ABSENCE OF SWISS OFFICIALS, ADOPTED ANOTHER TONE ALTOGETHER. IN CONTRAST TO THEIR TALKS WITH THE AUTHORITIES, THEY WERE INTERESTED ONLY IN THE DETAILS OF INDIVIDUAL CASES, THOSE OF INSIDER TRADERS DENNIS LEVINE AND BERNHARD MEIER, AND PARTICULARLY WANTED INFORMATION ABOUT HOW OTHER BANKS HAD REACTED IN THESE CASES. PLAINLY, THE INVESTIGATORS WERE LIVING UP TO THEIR NAME....

IN THE SWISS VIEW, HOWEVER, THE INFORMATION SOUGHT IN GENEVA VIOLATED IN THE FIRST PLACE SWISS BANK-SECRECY RULES, AND AT LEAST TOUCHED ON THE FORBIDDEN AREA OF ECONOMIC INFORMATION, WHILE IN THE THIRD PLACE IT WAS NOT A MATTER FOR AMERICAN INVESTIGATIVE OFFICIALS, WHO HAD NO LEGISLATIVE FUNCTION, TO SUPERVISE THE ACTIVITIES OF SWISS AS AUTHORITIES AND INSTITUTIONS. WHEN THE U.S. REPRESENTATIVES MADE CONTACT WITH THE SWISS POLICE MINISTRY, IT WAS DECIDED IN VIEW OF WHAT HAD HAPPENED THAT THE AMERICAN PARTY COULD ONLY CONTINUE THEIR JOURNEY ACCOMPANIED BY AN OFFICIAL SWISS REPRESENTATIVE, WHICH WAS ACCEPTED BY THE AMERICAN SIDE AFTER SOME ARGUMENT.

AT THE SAME TIME, A SWISS FOREIGN MINISTRY PROTEST BEGAN TO TAKE EFFECT. THE MINISTRY EXPRESSED TO A REPRESENTATIVE OF THE AMERICAN EMBASSY IN BERN WHO ACCOMPANIED THE PARTY ITS "EXTREME SURPRISE" AT THE WHOLE PROCEEDING. A MINISTRY REPRESENTATIVE FOUND ON INQUIRY THAT THE U.S. GROUP'S INFORMATION TOUR ALSO INCLUDED OTHER WEST EUROPEAN COUNTRIES AND HAD BEEN JUSTIFIED TO BERN AS HAVING TO DO WITH THE REVISION OF AMERICAN SECURITIES LEGISLATION. THE SWISS VISIT HAD ALSO BEEN "APPROVED" BY SEVERAL DEPARTMENTS IN BERN. IT WAS FINALLY EMPHASIZED THAT NO DAMAGE HAD BEEN DONE AND THAT GOOD RELATIONS HAD NOT BEEN DISTURBED, WHICH IS ALSO INDICATED BY THE FACT THAT THE AMERICAN REPRESENTATIVES LEFT SWITZERLAND WITHIN A MATTER OF HOURS. IT IS ALSO QUITE CLEAR THAT IN THE CASE OF A FURTHER VISIT, SWITZERLAND WILL HAVE AN OFFICIAL OBSERVER PRESENT, WITH THE TASK OF KEEPING THE AMERICAN THIRST FOR INFORMATION WITHIN THE BOUNDS SET BY BANK SECRECY AND THE SWISS PENAL CODE. (END TEXT)
(2/26/88) HENZE

END OF MESSAGE

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